

## U.S. Patent and Trademark Office, Commerce

## § 1.495

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japan Patent Office:

By a small entity (§1.27(a)) ..	\$460.00
By other than a small entity	\$920.00

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§1.27(a)) ..	\$43.00
By other than a small entity	\$86.00

(c) In addition to the basic national fee, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 (Note that §1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes.):

By a small entity (§1.27(a))	\$9.00
By other than a small entity .....	\$18.00

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§1.27(a)) ..	\$145.00
By other than a small entity	\$290.00

(e) Surcharge for filing the oath or declaration later than thirty months from the priority date pursuant to §1.495(c):

By a small entity (§1.27(a)) .....	\$65.00
By other than a small entity .....	130.00

(f) For filing an English translation of an international application or of any annexes to an international preliminary examination report later than thirty months after the priority date (§1.495(c) and (e)).....\$130.00.

(g) If the additional fees required by paragraphs (b), (c), and (d) of this section are not paid on presentation of the claims for which the additional fees are due, they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for

reply by the Office in any notice of fee deficiency.

[56 FR 65154, Dec. 13, 1991, as amended at 57 FR 38196, Aug. 21, 1992; 58 FR 4346, Jan. 14, 1993; 60 FR 41023, Aug. 11, 1995; 61 FR 39588, July 30, 1996; 62 FR 40453, July 29, 1997; 62 FR 53200, Oct. 10, 1997; 63 FR 67580, Dec. 8, 1998; 64 FR 67777, Dec. 3, 1999; 65 FR 78960, Dec. 18, 2000; 67 FR 523, Jan. 4, 2002; 67 FR 70850, Nov. 27, 2002; 68 FR 41535, July 14, 2003]

### § 1.495 Entering the national stage in the United States of America.

(a) The applicant in an international application must fulfill the requirements of 35 U.S.C. 371 within the time periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of America. The thirty-month time period set forth in paragraphs (b), (c), (d), (e) and (h) of this section may not be extended. International applications for which those requirements are timely fulfilled will enter the national stage and obtain an examination as to the patentability of the invention in the United States of America.

(b) To avoid abandonment of the application, the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:

(1) A copy of the international application, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office; and

(2) The basic national fee (see §1.492(a)).

(c) If applicant complies with paragraph (b) of this section before expiration of thirty months from the priority date but omits either a translation of the international application, as filed, into the English language, if the international application was originally filed in another language and if any English language translation of the publication of the international application previously submitted under 35 U.S.C. 154(d) (§1.417) is not also a translation of the international application as filed (35 U.S.C. 371(c)(2)), or the oath or declaration of the inventor (35 U.S.C. 371(c)(4) and §1.497), if a declaration of inventorship in compliance with

§1.497 has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26ter.1, applicant will be so notified and given a period of time within which to file the translation and/or oath or declaration in order to prevent abandonment of the application. The payment of the processing fee set forth in §1.492(f) is required for acceptance of an English translation later than the expiration of thirty months after the priority date. The payment of the surcharge set forth in §1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of thirty months after the priority date. A “Sequence Listing” need not be translated if the “Sequence Listing” complies with PCT Rule 12.1(d) and the description complies with PCT Rule 5.2(b).

(d) A copy of any amendments to the claims made under PCT Article 19, and a translation of those amendments into English, if they were made in another language, must be furnished not later than the expiration of thirty months from the priority date. Amendments under PCT Article 19 which are not received by the expiration of thirty months from the priority date will be considered to be canceled.

(e) A translation into English of any annexes to an international preliminary examination report (if applicable), if the annexes were made in another language, must be furnished not later than the expiration of thirty months from the priority date. Translations of the annexes which are not received by the expiration of thirty months from the priority date may be submitted within any period set pursuant to paragraph (c) of this section accompanied by the processing fee set forth in §1.492(f). Annexes for which translations are not timely received will be considered canceled.

(f) Verification of the translation of the international application or any other document pertaining to an international application may be required where it is considered necessary, if the international application or other document was filed in a language other than English.

(g) The documents and fees submitted under paragraphs (b) and (c) of this section must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371. Otherwise, the submission will be considered as being made under 35 U.S.C. 111(a).

(h) An international application becomes abandoned as to the United States thirty months from the priority date if the requirements of paragraph (b) of this section have not been complied with within thirty months from the priority date. If the requirements of paragraph (b) of this section are complied with within thirty months from the priority date but either of any required translation of the international application as filed or the oath or declaration are not timely filed, an international application will become abandoned as to the United States upon expiration of the time period set pursuant to paragraph (c) of this section.

[52 FR 20051, May 28, 1987, as amended at 58 FR 4347, Jan. 14, 1993; 63 FR 29620, June 1, 1998; 65 FR 57060, Sept. 20, 2000; 67 FR 523, Jan. 4, 2002; 68 FR 71007, Dec. 22, 2003]

**§1.496 Examination of international applications in the national stage.**

(a) International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met. However, unless an express request for early processing has been filed under 35 U.S.C. 371(f), no action may be taken prior to one month after entry into the national stage.

(b) A national stage application filed under 35 U.S.C. 371 may have paid therein the basic national fee as set forth in §1.492(a)(4) if it contains, or is amended to contain, at the time of entry into the national stage, only claims which have been indicated in an international preliminary examination report prepared by the United States Patent and Trademark Office as satisfying the criteria of PCT Article 33(1)-(4) as to novelty, inventive step and industrial applicability. Such national stage applications in which the basic national fee as set forth in §1.492(a)(4)